

IV. NON-RBOC LECS SHOULD NOT BE SUBJECT TO REGULATORY BURDENS IN DEPLOYING ADVANCED TELECOM NETWORKS

The Act explicitly recognizes that mid-size and small ILECs are not subject to the same regulatory requirements as RBOCs. For example, small and rural ILECs under Section 251(f)(1) and mid-size ILECs under Section 251(f)(2) may pursue relief from the requirements of Section 251. In addition, the in-region long distance requirements of Section 271 do not apply to small, rural, or mid-size ILECs.

In recent remarks, the Commission has expressed sentiments that recognize the importance of all communities being served by broadband technologies. Chairman Kennard stated:

... while all of us think the Information Superhighway is a good thing, it presents us with a special responsibility. It's to make sure that this booming revolution -- an \$800 billion industry last year alone -- is an inclusive one. That it creates opportunities for participation by all Americans.... Fostering increased investment in developing high-capacity bandwidth to cope with the burgeoning need for transmission capacity.

First, we must be sensitive to the special difficulties posed by providing service to four customers a square mile instead of the average for Baby Bells: 330. Rural carriers have higher switching costs. They have higher loop-related costs. And they have less demand.

Rural carriers may also be more vulnerable to competitors that skim the cream by taking away their large, multiline users. We need to be sensitive to the special needs of rural carriers in adopting regulatory changes -- as we move away from implicit to explicit subsidies and from regulated monopoly to competitive market.

So, let me make something absolutely clear. The 1996 Act recognizes that it's our job to see that rural communities are not

*left behind on the Information Highway.*³⁷

In other remarks, the Chairman explained the importance of adopting policies that address the special needs of such carriers:

...the Information Highway of today can bring us together as a Nation, or divide us. It can connect small and rural communities to the world of commerce and culture, or it can leave them behind. It is the most important factor in the economic development of our time.... And those rural communities with the infrastructure to allow people to do their jobs away from the big cities will fuel this economic development in rural America.

The great challenge that we face is to make sure that ... the small companies have the resources and the incentives to ensure that competition builds communities.

This is a challenge because in many cases, you receive much of your revenue from one, or just a few, multi-line businesses. So while there is no immediate prospect of broad based competitive entry in your areas, you are more vulnerable to cream skimming. One or two large businesses may generate the majority of your interstate minutes of use. It may be a major farming concern in Iowa, a ski resort in Vermont, or an army base in Tennessee. This is a challenge because many of you have costs that are higher than price cap local exchange carriers. Because you often serve areas that are less densely populated, you have longer loops and more expensive transport. This is a challenge because many of you have higher network construction costs due to difficult terrain. And because you serve smaller populations, you may not be able to achieve the same economies of scale that larger carriers can achieve.

This is a challenge because on average, you serve between two and three thousand customers. Some of you receive more than half of your total revenues from interstate access and universal service, compared to just over 25 percent for the price cap carriers.

So because of these challenges, we must work hard to make sure

³⁷ Remarks of Chairman William E. Kennard, *Connecting All Americans* Conference, Department of Commerce, Washington, D.C. (February 26, 1998)(emphasis added).

that as the regulatory environment changes in this great shift from monopoly to competition, it is flexible enough to accommodate the special needs of your communities....

We need to strive to find a better paradigm for small company regulation. I think we can agree that it does not make sense to force small companies into a BOC-style price-cap regime....

Another opportunity for dialogue on these issues will be the proceeding on Section 706 of the Telecommunications Act.

Under Section 706, this year the Commission will initiate a proceeding to determine whether advanced telecommunications capability is being deployed to all Americans in a timely fashion.

We want to identify and remove barriers to infrastructure investment so we can promote investment in bandwidth capacity.

This is so crucial to the development of infrastructure everywhere, and especially in rural areas.³⁸

For companies of all sizes, the Commission's efforts to eliminate barriers to making financial commitments to rapidly deploy advanced telecommunications networks is critical.

CONCLUSION

This proceeding will shape the future of American generations for years to come.

Adoption of policies that mimic existing suffocating regulations will impair the technological and economic competitive edge of American technology. RBOCs and other ILECs must be permitted to build advanced telecommunications networks which are needed to relieve existing Internet congestion and which will provide better services today and new products and services tomorrow.

Without innovative government support for deployment of such networks, the investment

³⁸ Remarks of Chairman William E. Kennard, "Keeping America Connected," to OPASTCO, Fort Lauderdale, Florida (January 12, 1998)(emphasis added)..

community will express its apprehension by short-circuiting access to capital, and global markets will route their telecommunications traffic over the newly built and yet to be built international networks of global competitors with access to the American market under WTO agreements, while existing networks become the modern day rust-belt industries. Existing networks will not perish because of neglect, they will become useless because of heavy-handed regulation currently applied to ILEC networks. In short, domestic markets will go unserved, jobs will be lost, and the economy will suffer in a competitive, global marketplace in which innovation will be the hallmark of success.

USTA urges the Commission to eliminate barriers to entry of ILECs deploying advanced telecommunications networks. The Commission should not impose existing regulations applied to ILEC wireline networks, and should expedite approval of the Bell Atlantic, U S WEST and Ameritech Petitions. Small, rural, and mid-size companies should be encouraged to upgrade their services through the deployment of advanced networks without the Commission employing a one-size-fits-all approach to regulation. The Commission can speed access to new products and services, advance American technological competitiveness, enhance economic growth, and promote consumer access and choice by declaring that requests by any local exchange carrier to deploy advanced telecommunications networks anywhere is in the public interest and that ILECs may deploy such networks without delay or any regulatory burdens.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

April 6, 1998

By:

Keith Townsend

Mary McDermott

Linda Kent

Keith Townsend

Lawrence E. Sarjeant

1401 H Street, NW

Suite 600

Washington, D.C. 20005

(202) 326-7310

Its Attorneys